3   receiving a bio-metric input of a first user into a bio-metric user-identification

4   input component of a controller;

5   establishing a current system state of the controller different from a previous

6   system state of the controller that was in effect after a previous use of the controller

7   by the first user and before a use of the controller by a second user; and

8   providing access to functionality of a consumer device by use of the

9   controller;

10   wherein said access is dependent upon the bio-metric input;

11   wherein said use of the controller by the second user caused the controller

12 to have a system state different than the previous system state.

1   53. (New) A method of accessing to functionality of a consumer device

2   comprising the steps:

3   receiving a bio-metric input of a first user into a bio-metric user-identification

4   input component of a controller;

5   establishing a current system state of the controller different from a previous

6   system state of the controller that was in effect after a previous use of the controller

7   by the first user and before a use of the controller by a second user; and

8   providing access to functionality of a consumer device by use of the

9   controller;

10   wherein said access is dependent upon the bio-metric input;

11   wherein said use of the controller by the second user caused the controller

12 to have a system state similar to the previous system state.

REMARKS

Claims 1-44 were presented previously. In the present amendment, claims 10, 16, 25, 26, and 29-31 have been canceled. Claims 1, 6, 17, 27, and 38 have been amended. New claims 45-53 have been added.

1.   **Drawings**

The Examiner objected to the Drawings under 37 CFR 1.83(a). In response Applicant has deleted references in the claims to features the Examiner has asserted are not shown in the drawings, where applicable.

2.   **Claim Objections**

The Examiner has objected to claim 6 because of informalities. In response Applicant has amended claim 6, in accordance with the Examiner's suggestion, by replacing "date" with --data--.

3.   **Rejection under 35 USC § 112**

The Examiner has rejected claims 1-26, 32, and 38-44 under 35 USC 112, first paragraph.

Claim 6

With regards to claim 6, Applicant has amended that claim to recite that the controller "is prepared for input" in response to a request for voice data. This limitation is supported by the specification at page 10, lines 5-10, therefore, no new matter has been added.

Claims 1, 17, 27 and 38

The preambles in claims 1, 17, 27 and 38 have been amended for succinctness.

Claims 1-26 and 38-44

With regard to claims 1-26 and 38-44, the Applicant respectfully disagrees with the Examiner's rejection that neither the pending application nor the parent application disclose the claimed limitation "a current system state of the controller **related** to a previous system state of the controller", as recited in independent claims 1, 17 and 38. Applicant respectfully submits that Applicant's specification discloses a variety of different relationships between the system state at a user's

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last use of the controller and the system state returned to when the user logs on again, that is **related** but not necessarily the **same** or **similar**.

The log-on being a state the same as or similar to the last state is only described as the **most common** relationship. For instance, at page 12 lines 11-15, it is clearly stated that returning to the same state is merely the simplest of various possible algorithms, and that this may not always be the desirable state to return to. For instance, Applicant's specification at page 13, lines 5-8 clearly states:

> Typical behaviors of users may also play a role in determining which screen is shown first. For example, if a particular user makes 80% of all their interactions with a CD listings screen, the controller could determine this to be the "typical" use, and whenever that user logs in, they could be immediately taken to this screen.

Applicant respectfully submits that under the scenario just quoted, 20% of all the user's interactions will not be with the CD listings screen, and that therefore in a significant number of cases, the last interaction a user has with the controller will not be the **same** or **similar**. Such last interactions could be with any of the other screens described in Applicant's related disclosures, including U.S. Patent No. 6,104,334, U.S. Patent No. 6,097,441, and U.S. patent application Serial No. 09/221,940, whose contents are incorporated into the present specification by reference (page 1, lines 7-14).

By way of example, the teaching of "group user identities" at page 13, line 19 to page 14, line 10 describes how related states operate in one embodiment where a user may interact with the controller either as an individual user, or as a member of a group of users. In the example scenario, which is compared to the scenario given on page 13, lines 10-18, "USER2" as an individual has preferences for small fonts and many sports programs. However, as a member of the group identity "USER1+USER2", the same user has preferences for medium fonts and fewer sports programs.

Applicant respectfully submits that the individual's last interaction with the controller may be as a member of the group identity "USER1+USER2".

Furthermore, on the following day, after use of the controller by others, the same individual may log on to the controller and be taken to an initial screen associated with the "USER2" individual identity. In such a case, there will clearly be at least a difference between both the appearance (medium vs. small fonts) and content (less vs. more sports) of the possible "last use" and "first log-on" states. However, although the states may be different both in form and content, they will nevertheless be **related** by virtue of their association with the same user in his different capacities as either individual or member of a group.

Another type of relationship between possible controller states at last use and first logon for a given user, where the states are related but not the same or similar, is disclosed in Applicant's specification page 12, line 14 to page 13, line 2. Three different scenarios are described. In each scenario, user's last use of the controller is on a Tuesday at 7.45 pm, to look at an EPG grid for TV programs. The specification teaches that three **different** "first log-on" screens may be subsequently presented to the user the next time they log in to the controller. The first scenario, described page 12, lines 15-19, teaches that the subsequent initial state of the controller may be of a similar category of use (displaying current TV listings) but with **different contents** (Wednesday's programs, not Tuesday's). The second scenario, described page 12, lines 20-23, teaches that the initial state may be the **same** (displaying TV listings for late Wednesday evening). The third scenario, described page 12, line 23 to page 13, line 2 teaches that the initial state may be of a **different but related category of use** (displaying current TV listings instead of future TV listings), in which again the display contents will clearly be different.

Another way in which the system states presented by the controller may differ between a user's last use and a user's subsequent first use, is disclosed in Applicant's teaching regarding parental control. Examiner's attention is directed to U.S. Patent No. 6,104,334, col. 20, line 55 – col. 21, line 17, especially col. 21, lines 6-10, which describe how:

a parent could set a child's settings such that the child could not access the TV during certain time periods; or not access certain channels of the TV; or not access certain programs within a certain channel of the TV, etc.

Therefore depending upon such settings, it is clear that a child may log in to the controller at a particular time, and find that options that were available at the end of previous use of the controller are no longer available. As further described in the above reference, a subset of the title-based descriptions may be presented to the child, which differs from the subset presented previously. Applicant respectfully asserts that for at least these reasons, claims 1-26 and 38-44 are allowable under 35 U.S.C. § 112 and requests that the rejections be withdrawn.

Claims 15, 24, and 28

With regard to claims 15, 24, and 28, the Applicant respectfully disagrees with the Examiner's rejection that the specification does not disclose or teach how the current system state prevents use of the controller from accessing pay-per-view programming. The specification on page 15, lines 3-17, clearly describes a "time-out feature" and a "lock feature" that can prevent access to pay-per-view.

Claims 34 and 43

The Applicant respectfully disagrees with the Examiner's rejection that with regard to claims 34 and 43 the specification does not disclose or teach how to switch from the first system state at a time calculated by an algorithm which incorporates a category of use associated with the consumer device. Applicant directs the Examiner's attention to the specification on page 6, lines 3-9, and to page 14, lines 18-19 which state "For example, the time-out algorithm may incorporate factors such as the identity or class of the user, the time of day or night, the category of use (e.g., listening to CDs, watching TV, etc.),".

Claims 35 and 44

The Applicant respectfully disagrees with the Examiner's rejection that with regard to claims 35 and 44 the specification does not disclose or teach how to

switch from the first system state at a time calculated by an algorithm which incorporates a subject matter of activity within a category of use associated with the consumer device. In addition to the remarks of the immediately preceding paragraph, the Applicant directs the Examiner's attention to the specification at page 14, line 20, which explicitly discusses switching from the first system state at a time calculated by an algorithm which incorporates a subject matter of activity within a category of use associated with the consumer device.

The remaining claims were rejected to the extent they inherit the flaw(s) of their base claim. In light of the above arguments, the cancellation of claims 10, 16, 25, 26, and 29-31, and the amendment to claim 6, Applicant respectfully asserts that all of the remaining pending claims are allowable under 35 U.S.C. § 112 and that the rejection be withdrawn.

4.   Rejection Double Patenting

The Examiner has rejected claims 1-9, 11-14, 17-23, 27, 33-35, and 37-44 under the judicially created doctrine of obviousness-type double patenting citing claims 1-9 of U.S. Patent No. 6,256,019.

In response, Applicant submits herewith a terminal disclaimer in compliance with 37 C.F.R. 1.321 (b) and (c). The present application and U.S. Patent No. 6,256,019 (USSN 09/280,524) are commonly owned, as evidenced by the assignment attached herewith as Attachment A. As such, the Applicant respectfully requests withdrawal of this rejection.

The Examiner has rejected claims 10, 15, 16, 24-26, 28-32, and 36 under the judicially created doctrine of obviousness-type double patenting citing claim 9 of U.S. Patent No. 6,256,019, in view of Merjanian (U.S. Patent No. 5,920,642).

In response, Applicant submits herewith a terminal disclaimer in compliance with 37 C.F.R. 1.321 (b) and (c). The present application and U.S. Patent No. 6,256,019 are commonly owned, as evidenced by the assignment attached herewith as Attachment A. As such, the Applicant respectfully requests withdrawal of this rejection.

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5. New Claims

No new matter has been added by the new claims. New claims 45-53 are fully supported in the original specification.
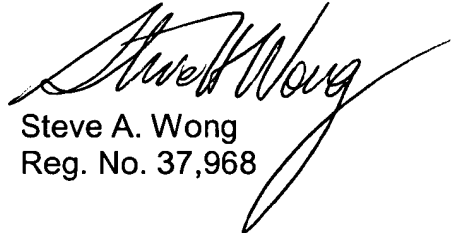
6. Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that this application, including all remaining pending claims, are in condition for allowance. Every effort has been made to place this application in condition for allowance. Thus, consideration on the merits and early allowance are earnestly requested.

If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, he is herein kindly requested to call Applicant's attorney at the phone number noted below.

Respectfully submitted,

DISCOVISION ASSOCIATES

Date: February 7, 2002

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Attachment: Version with Markings to Show Changes Made

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Claims 10, 16, 25, 26, and 30 have been canceled.

Claims 1, 6, 17, 27, and 38 have been amended as follows:

1   1. (Amended) A method [of allowing access to] for accessing functionality
2   of a consumer device comprising the steps:
3   receiving bio-metric input of a first user into a bio-metric user-identification
4   input component of a controller;
5   establishing a current system state of the controller related to a previous
6   system state of the controller that was in effect after a previous use of the
7   controller by the first user and before a use of the controller by a second user; and
8   providing access to functionality of a consumer device by use of the
9   controller;
10   wherein said access is dependent upon the bio-metric input;
11   wherein said use of the controller by the second user caused the controller
12   to have a system state different than the previous system state.

1   6. (Amended) The method of Claim 5, wherein the bio-metric input is voice
2   data, and wherein the voice [date] data is received after the controller is prepared
3   for input [enters a temporary system state] in response to a request to process the
4   voice data.

1   17. (Amended) A controller [for controlling access to a consumer device]
2   comprising:
3   a bio-metric input component; and
4   a graphical display;
5   wherein the controller, upon log-on thereto by a first user, is programmed
6   to enter a current system state related to a previous system state of the controller

7   that was in effect after a previous use of the controller by the first user and before

8   a use of the controller by a second user, both uses occurring before said log-on;

9   wherein said log-on occurs in response to the first user inputting bio-metric

10   input into the bio-metric input component.

1   27. (Amended) A method of [controlling multi-user access to] <u>accessing</u>

2   functionality of a consumer device comprising the steps:

3   determining an identity of a first user in response to bio-metric input

4   supplied by the first user to a controller;

5   establishing a first system state of the controller, said first system state

6   being associated with said identity;

7   providing access to a first set of functionality of a consumer device by use

8   of the controller, said access being dependent upon the identity of the first user;

9   and

10   switching to a second system state from the first system state at a time

11   calculated by an algorithm which incorporates at least one factor other than the

12   passage of a certain amount of time.

1   38. (Amended) A method of [controlling multi-user access to] <u>accessing</u>

2   functionality of a consumer device comprising the steps:

3   determining an identity of a first user in response to bio-metric input

4   supplied by the first user to a controller;

5   establishing a first system state of the controller, said first system state

6   being associated with said identity;

7   providing access to a first set of functionality of a consumer device by use

8   of the controller, said access being dependent upon the identity of the first user;

9   and

10   switching to a second system state from the first system state in response

11   to a predetermined amount of time passing after establishing the first system state,

12   said second system state being related to a previous system state of the controller

13   that was in effect after a previous use of the controller by a second user which

14   occurred prior to establishing the first system state.

New claims 45-53 have been added as follows:

1   45. (New) A method of accessing functionality of a consumer device

2   comprising the steps:

3   determining an identity of a first user in response to a bio-metric input

4   supplied by the first user to a controller;

5   establishing a first system state of the controller, said first system state

6   being associated with said identity;

7   providing access to a first set of functionality of a consumer device by use

8   of the controller, said access being dependent upon the identity of the first user;

9   and

10   establishing a second system state of the controller in response to a second

11   bio-metric input supplied by the first user to the controller, wherein said second

12   system state is associated with a group user identity;

13   providing access to a second set of functionality of a consumer device by

14   use of the controller, said access being dependent upon the group user identity;

15   wherein said second bio-metric input is supplied by the first user prior to

16   another bio-metric input being supplied to the controller by a different user;

17   wherein the first user is associated with said group user identity.

1   46. (New) The method of Claim 45, wherein the bio-metric input component

2   is a fingerprint pad.

1   47. (New) The method of Claim 45, wherein the controller is a hand-held

2   controller.

1   48. (New) The method of Claim 47, wherein the controller comprises a

2   display area, and further comprising the step of displaying on the display area data

3   representing available functions to be executed.

1   49. (New) A method of allowing access to functionality of a consumer device

2   comprising the steps:

3   receiving a bio-metric input of a first user into a bio-metric user-identification

4   input component of a controller;

5   establishing a current system state of the controller similar to a previous

6   system state of the controller that was in effect after a previous use of the controller

7   by the first user and before a use of the controller by a second user; and

8   providing access to functionality of a consumer device by use of the

9   controller;

10   wherein said access is dependent upon the bio-metric input;

11   wherein said use of the controller by the second user caused the controller

12   to have a system state different than the previous system state.

1   50. (New) The method of Claim 15 wherein the current system state

2   prevents use of the controller for accessing pay-per-view programming by a time-

3   out feature or a lock feature.

1   51. (New) A method of accessing functionality of a consumer device

2   comprising the steps:

3   receiving a bio-metric input of a first user into a bio-metric user-identification

4   input component of a controller;

5   establishing a current system state of the controller similar to a previous

6   system state of the controller that was in effect after a previous use of the controller

7   by the first user and before a use of the controller by a second user; and

8   providing access to functionality of a consumer device by use of the

9   controller;

10   wherein said access is dependent upon the bio-metric input;

11   wherein said use of the controller by the second user caused the controller

12   to have a system state similar to the previous system state.

1   52. (New) A method of accessing functionality of a consumer device

2   comprising the steps:

3   receiving a bio-metric input of a first user into a bio-metric user-identification

4   input component of a controller;

5   establishing a current system state of the controller different from a previous

6   system state of the controller that was in effect after a previous use of the controller

7   by the first user and before a use of the controller by a second user; and

8   providing access to functionality of a consumer device by use of the

9   controller;

10   wherein said access is dependent upon the bio-metric input;

11   wherein said use of the controller by the second user caused the controller

12   to have a system state different than the previous system state.

1   53. (New) A method of accessing functionality of a consumer device

2   comprising the steps:

3   receiving a bio-metric input of a first user into a bio-metric user-identification

4   input component of a controller;

5   establishing a current system state of the controller different from a previous

6   system state of the controller that was in effect after a previous use of the controller

7   by the first user and before a use of the controller by a second user; and

8   providing access to functionality of a consumer device by use of the

9   controller;

10   wherein said access is dependent upon the bio-metric input;

11   wherein said use of the controller by the second user caused the controller

12   to have a system state similar to the previous system state.